

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FREDDIE L. WILLIS,

Plaintiff,

vs.

CITY OF OMAHA NEBRASKA, CHARLES
SWEENEY, in his individual capacity; and
CORY BILLINGS, in his individual capacity;

Defendants.

8:22CV147

ORDER

The Court is in receipt of the plaintiff's notice of appeal. ([Filing No. 104.](#)) The plaintiff is a prisoner who was previously granted leave to proceed in forma pauperis (IFP) ([Filing No. 7.](#)) A party who was permitted to proceed IFP in a district court action may proceed on appeal IFP without further authorization, unless the district court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. [Fed. R. App. P. 24\(a\)\(3\)\(A\)](#). The Court finds that because the plaintiff proceeded IFP in the district court, he may now proceed on appeal IFP without further authorization.

Under the Prison Litigation Reform Act, a prisoner plaintiff is required to pay the full amount of the Court's \$605.00 appellate filing fee by making monthly payments to the Court, even if the prisoner is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\)](#). The Act "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." [In re Tyler, 110 F.3d 528, 529 \(8th Cir. 1997\)](#). The appellate filing fee is assessed when the Court receives the prisoner's notice of appeal. [Henderson v. Norris, 129 F.3d 481, 485 \(8th Cir. 1997\)](#).

Pursuant to § 1915(b)(1), the plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of the plaintiff's average monthly account balance or average monthly

deposits for the six months preceding the filing of the complaint or notice of appeal. Based on the records before the Court, the Court finds that the initial partial filing fee is \$37.03, given average monthly deposits of \$185.13 for the six months preceding the notice of appeal. ([Filing No. 109.](#)) In addition to the initial partial filing fee, the plaintiff must “make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account.” § 1915(b)(2). The statute places the burden on the prisoner's institution to collect the additional monthly payments and forward them to the Court as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

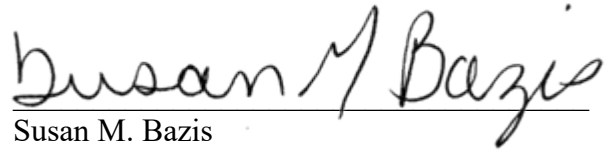
Section 1915(b)(2). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to this procedure.

IT IS ORDERED:

1. The plaintiff may proceed on appeal in forma pauperis.
2. The plaintiff shall pay an initial partial filing fee of \$37.03 by September 27, 2024, unless an enlargement of time is granted in response to a written motion.
3. The Clerk of the Court is directed to set a case management deadline of September 27, 2024.
4. After payment of the initial partial filing fee, the plaintiff's institution shall collect the additional monthly payments in the manner set forth in [28 U.S.C. § 1915\(b\)\(2\)](#), quoted above, and shall forward those installments to the Court.
5. The Clerk of the Court is directed to send a copy of this order to the appropriate official at the plaintiff's institution and to the Eighth Circuit Court of Appeals.

Dated this 27th day of August, 2024.

BY THE COURT:

A handwritten signature in black ink, reading "Susan M. Bazis". The signature is written in a cursive style with a horizontal line underneath the name.

Susan M. Bazis
United States District Judge